

1 Daniel D. Maynard, No. 009211  
2 **MAYNARD CRONIN ERICKSON**  
3 **CURRAN & REITER, P.L.C.**  
4 3200 North Central Avenue, Suite 1800  
5 Phoenix, Arizona 85012  
6 (602) 279-8500  
7 [dmaynard@mmcec.com](mailto:dmaynard@mmcec.com)

8 Attorneys for Defendant

9 **UNITED STATES DISTRICT COURT**  
10 **DISTRICT OF ARIZONA**

11 United States of America,  
12 Plaintiff,

13 v.

14 Abdul Malik Abdul Kareem,  
15 Defendant.

No. CR 15-00707-PHX-SRB

16 **REPLY TO MOTION TO SEAL**  
17 **EXHIBITS 1, 2, 3 AND 5 TO**  
18 **DEFENDANT'S SUPPLEMENTAL BRIEF**  
19 **IN SUPPORT OF MOTION FOR NEW**  
20 **TRIAL BASED ON PROSECUTORIAL**  
21 **MISCONDUCT**

22 **(Filed Under Seal)**

23 Defendant, Abdul Malik Abdul Kareem ("Abdul Kareem"), by and through his  
24 undersigned counsel, does not believe that the Court should grant the Motion to Seal the  
25 Exhibits to the Supplemental Brief. Abdul Kareem's counsel only filed the motion based upon  
26 the order that was entered by this Court on August 6, 2015. (Dkt. No. 44) The August 6, 2015  
Order provides that recorded conversations involving Abdul Kareem and others involving  
making reference to Abdul Kareem as well as "reports of interviews in the case" are designated  
as discovery materials. The Government contended that discovery materials in some instances  
contained information that would disclose the identity of juveniles as well as reveal personally  
identifying information of other individuals. Abdul Kareem does not believe that the exhibits  
to the supplemental brief provide any information about juveniles nor any identifying  
information about individuals that would be harmful. As the Government correctly sets out in  
its Response, some of the materials that have been designated as exhibits to the supplement are  
screen shots of communications between an uncover FBI employee (UCE) and both Elton

1 Simpson (“Simpson”) and Erick Jamal Hendricks (“Hendricks”). Hendricks is a defendant in  
2 another action brought by the United States in the Northern District of Ohio. However, as the  
3 United States points out in its response Exhibit 1 is a public document from the Hendricks case  
4 filed in the Northern District of Ohio. That public record names the declarant, and how the  
5 UCE conducted his communications, the social media identifiers used by the UCE, Simpson  
6 and Hendricks. Exhibit 3 contains selected screen shots of the tweets between the UDC,  
7 Simpson and Hendricks but no other identifiers from those disclosed in Exhibit 1. Exhibit 5  
8 is a redacted FD302 written by the UCE concerning his driving behind Simpson and Soofi in  
9 Garland, Texas at the time of their attack. There are no identifiers in the exhibit that have not  
10 already been redacted.

11 Thus, there does not appear to be any highly sensitive information involving  
12 investigations into ISIL and other foreign terrorist organizations within these documents. In  
13 fact, Abdul Kareem will be filing a reply to the Government’s Response to the Supplemental  
14 Motion for a new trial on the basis that the Government was provided a new FD302 with copies  
15 of photographs taken by the UCE who was following Simpson and Soofi at the time of the  
16 attack in Garland, Texas. These materials were turned over to Abdul Kareem’s counsel after  
17 the Supplement to the Motion for New Trial was filed and lead to the conclusion that the United  
18 States continues not to be forthcoming in turning over materials in a timely manner.

19 For all of these reasons, there is no basis for the exhibits to the Supplement to the Motion  
20 for New Trial to be filed under seal and not be part of the public record. There is no identifying  
21 information in there nor from what Abdul Kareem’s counsel and experts can discern, is there  
22 any way to “reverse engineer” the undercover investigation as hypothesized by the United  
23 States. For all of these reasons, the Court should deny the Motion to Seal and make these  
24 documents part of the public record since they would have been used as exhibits at a trial.

This motion is made in good faith and not for purposes of delay. Local Rule 4.16 requires that any motion submitted for filing in a criminal case must contain a statement as follows: “Excludable delay under 18 U.S.C. § 3161(h)(1)(F) will occur as a result of this motion or of an order based thereon.”

RESPECTFULLY SUBMITTED this 30<sup>th</sup> day of November 2016.

**MAYNARD CRONIN ERICKSON  
CURRAN & REITER, P.L.C.**

By /s/Daniel D. Maynard  
Daniel D. Maynard  
3200 North Central Ave., Suite 1800  
Phoenix, Arizona 85012  
Attorneys for Defendant

**ORIGINAL** of the foregoing e-filed this 30<sup>th</sup> day of November 2016.

By /s/Stacey Tanner